

FEDERAL ELECTION COMMISSION

999 E Street, N.W.

Washington, D.C. 20463

2016 NOV -3 PM 3: 26

SENSITIVE

FIRST GENERAL COUNSEL'S REPORT

CELA

MUR: 7061

DATE COMPLAINT FILED: 05/09/2016

**DATES OF NOTIFICATION: 05/13/2016,
08/12/2016**

LAST RESPONSE RECEIVED: 08/01/2016

DATE ACTIVATED: 08/08/2016

ELECTION CYCLE: 2016

EXPIRATION OF SOL: 04/15/2021

COMPLAINANT:

Cherunda Fox

RESPONDENTS:

Hillary Victory Fund and Elizabeth Jones in her
official capacity as treasurer

Hillary for America and Jose Villarreal in his
official capacity as treasurer

**RELEVANT STATUTES
AND REGULATIONS:**

52 U.S.C. § 30116(a)(1)(D)

11 C.F.R. § 102.17(c)(5)

11 C.F.R. § 110.1(c)(5)

11 C.F.R. § 110.3(a), (b)

INTERNAL REPORTS CHECKED:

Disclosure Reports

AGENCIES CHECKED:

None

I. INTRODUCTION

The Complaint alleges that a "Hillary Clinton fundraiser" held on April 15, 2016, raised contributions in excess of the applicable limits.¹ For the reasons set forth below, we recommend that the Commission find no reason to believe that the Respondents violated the Commission's regulations or the Federal Election Campaign Act of 1971, as amended (the "Act"), and close the file.

¹ See Compl. at 1 (May 9, 2016).

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1 **II. FACTUAL AND LEGAL ANALYSIS**

2 The Hillary Victory Fund ("HVF"), a joint fundraising committee, held the described
3 fundraiser in San Francisco, California.² HVF's participants included Hillary for America
4 ("HFA"), Hillary Clinton's principal campaign committee for the 2016 presidential election, the
5 Democratic National Committee ("DNC"), and 32 state Democratic Party committees.³

6 According to HVF's website, it distributes its contributions using the following formula:

- 7 1) The first \$2,700/\$5,000 of each donation from an individual/PAC
8 is allocated to HFA;
9
10 2) The next \$33,400/\$15,000 of each donation from an
11 individual/PAC is allocated to the DNC;⁴
12
13 3) Additional amounts are divided equally among the participating
14 Democratic state party committees, with a maximum contribution
15 of \$10,000/\$5,000 per state party.⁵
16

17 The Complaint alleges that the fundraiser accepted \$353,000 from individuals in excess
18 of the contribution limits at 11 C.F.R. § 110.3(a) because the state party participants were
19 affiliated and subject to a single \$10,000 contribution limit.⁶ Respondents maintain that the

² See Hillary for America Resp. ("Resp.") at 1. As the Complaint makes its allegations against a "Hillary Clinton fundraiser," the Office of Complaints Examination and Legal Administration ("CELA") originally notified Hillary for America, Clinton's principal campaign committee. Hillary for America's Response indicated that the fundraiser was held by HVF, so CELA then notified HVF, which did not separately respond to the Complaint.

³ FEC Form 1, Statement of Organization, Hillary Victory Fund, (amended Nov. 2, 2015). This statement of organization was amended on July 1, 2016, to show that 38 state committees are now participating in HVF. See FEC Form 1, Statement of Organization, Hillary Victory Fund (amended July 1, 2016).

⁴ If a donation was made before the relevant primary election, then the second \$2,700/\$5,000 will be allocated to HFA's general election campaign fund, followed by the allocation set forth in parts 2 and 3. See <https://www.hillaryclinton.com/donate/go/> (last visited Nov. 29, 2016).

⁵ See <https://www.hillaryclinton.com/donate/go/> (last visited Nov. 29, 2016).

⁶ Compl. at 1.

1 participating state party committees are not affiliated and do not share a single \$10,000
2 contribution limit.⁷ We agree.

3 The Act imposes a \$10,000 limit on a person's contributions to a state party committee in
4 any calendar year: "[n]o person shall make contributions . . . to a *political committee* established
5 and maintained by a State committee of a political party in any calendar year which, in the
6 aggregate, exceed \$10,000."⁸ This language indicates that the \$10,000 limit applies to
7 contributions made to each state party committee; it does not apply the \$10,000 limit, in the
8 aggregate, to all of the state party committees of a political party. Further, the regulations that
9 apply to joint fundraising committees do not restrict an individual's ability to contribute up to the
10 limit to multiple participating state party committees.⁹

11 The Complainant relies on 11 C.F.R. § 110.3(a) and (b), which govern the contribution
12 limits for affiliated committees and political party committees, respectively, but that position is
13 not supported by those provisions.¹⁰ While subpart (a) applies to most committees and
14 membership organizations, it explicitly excludes political party committees.¹¹ Subpart (b)
15 affiliates state party committees with their subordinate committees and clarifies that national and

⁷ See Resp. at 1.

⁸ 52 U.S.C. § 30116(a)(1)(D) (emphasis added); see also 11 C.F.R. § 110.1(c)(5).

⁹ See 11 C.F.R. § 102.17(c)(5) ("Except to the extent that the contributor has previously contributed to any of the participants, a contributor may make a contribution to the joint fundraising effort which contribution represents the total amount that the contributor could contribute to all of the participants under the applicable limits of 11 CFR 110.1 and 110.2."). See also Advisory Op. 2004-12 (Democrats for the West) (advising that contributors could contribute up to \$10,000 to "one or more" of nine state party committees that were each affiliated with a common committee).

¹⁰ Compl. at 1.

¹¹ See 11 C.F.R. § 110.3(a)(2)(iv).

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state committees are not affiliated.¹² Neither subpart (b) nor any other provision of the Commission's regulations affiliates state party committees from different states.

Thus, the Complainant's allegations are not supported by the applicable law. We recommend that the Commission find no reason to believe that the Respondents violated the Act or Commission regulations, and close the file.

III. RECOMMENDATIONS

1. Find no reason to believe that Hillary Victory Fund and Elizabeth Jones in her official capacity as treasurer violated the Act or Commission regulations;
2. Find no reason to believe that Hillary for America and Jose Villarreal in his official capacity as treasurer violated the Act or Commission regulations;
3. Approve the attached Factual and Legal Analysis;
4. Approve the appropriate letters; and
5. Close the file.

Date

11/3/16

Stephen Gura

Deputy Associate General Counsel for Enforcement

Mark Allen

Assistant General Counsel

Christopher L. Edwards
Attorney

Attachment:
Factual and Legal Analysis

¹² See 11 C.F.R. § 110.3(b).

FACTUAL AND LEGAL ANALYSIS

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Hillary Victory Fund MUR 7061
Elizabeth Jones in her official capacity as treasurer
Hillary for America
Jose Villerral in his official capacity as treasurer

I. INTRODUCTION

The Complaint alleges that a “Hillary Clinton fundraiser” held on April 15, 2016, raised contributions in excess of the applicable limits.¹ The available information does not indicate that any of the Respondents violated the Federal Election Campaign Act of 1971, as amended (the “Act”), because Hillary Victory Fund (“HVF”) was able to solicit the fundraiser’s maximum donation of \$353,400 per person.

II. FACTUAL AND LEGAL ANALYSIS

HVF, a joint fundraising committee, held the described fundraiser in San Francisco, California.² HVF's participants included Hillary for America ("HFA"), Hillary Clinton's principal campaign committee for the 2016 presidential election, the Democratic National Committee ("DNC"), and 32 state Democratic Party committees.³ According to HVF's website, it distributes its contributions using the following formula:

- 1) The first \$2,700/\$5,000 of each donation from an individual/PAC is allocated to HFA;

¹ See Compl. at 1 (May 9, 2016).

² See Hillary for America Resp. (“Resp.”) at 1.

³ FEC Form 1, Statement of Organization, Hillary Victory Fund, (amended Nov. 2, 2015). This statement of organization was amended on July 1, 2016, to show that 38 state committees are now participating in HVF. See FEC Form 1, Statement of Organization, Hillary Victory Fund (amended July 1, 2016).

- 2) The next \$33,400/\$15,000 of each donation from an individual/PAC is allocated to the DNC;⁴
- 3) Additional amounts are divided equally among the participating Democratic state party committees, with a maximum contribution of \$10,000/\$5,000 per state party.⁵

The Complaint alleges that the fundraiser accepted \$353,000 from individuals in excess of the contribution limits at 11 C.F.R. § 110.3(a) because the state party participants were affiliated and subject to a single \$10,000 contribution limit.⁶ Respondents maintain that the participating state party committees are not affiliated and do not share a single \$10,000 contribution limit.⁷ The Commission agrees.

The Act imposes a \$10,000 limit on a person's contributions to a state party committee in any calendar year: "[n]o person shall make contributions . . . to a *political committee* established and maintained by a State committee of a political party in any calendar year which, in the aggregate, exceed \$10,000."⁸ This language indicates that the \$10,000 limit applies to contributions made to each state party committee; it does not apply the \$10,000 limit, in the aggregate, to all of the state party committees of a political party. Further, the regulations that apply to joint fundraising committees do not restrict an individual's ability to contribute up to the limit to multiple participating state party committees.⁹

⁴ If a donation was made before the relevant primary election, then the second \$2,700/\$5,000 will be allocated to HFA's general election campaign fund, followed by the allocation set forth in parts 2 and 3. See <https://www.hillaryclinton.com/donate/go/> (last visited Nov. 1, 2016).

⁵ See <https://www.hillaryclinton.com/donate/go/> (last visited Nov. 1, 2016).

⁶ Compl. at 1.

⁷ See Resp. at 1.

⁸ 52 U.S.C. § 30116(a)(1)(D) (emphasis added); see also 11 C.F.R. § 110.1(c)(5).

⁹ See 11 C.F.R. § 102.17(c)(5) ("Except to the extent that the contributor has previously contributed to any of the participants, a contributor may make a contribution to the joint fundraising effort which contribution represents the total amount that the contributor could contribute to all of the participants under the applicable limits of 11 CFR 110.1 and 110.2."). See also Advisory Op. 2004-12 (Democrats for the West) (advising that contributors could

1 The Complainant relies on 11 C.F.R. § 110.3(a) and (b), which govern the contribution
2 limits for affiliated committees and political party committees, respectively, but that position is
3 not supported by those provisions.¹⁰ While subpart (a) applies to most committees and
4 membership organizations, it explicitly excludes political party committees.¹¹ Subpart (b)
5 affiliates state party committees with their subordinate committees and clarifies that national and
6 state committees are not affiliated.¹² Neither subpart (b) nor any other provision of the
7 Commission's regulations affiliates state party committees from different states.

8 Thus, the Complainant's allegations are not supported by the applicable law. The
9 Commission therefore finds no reason to believe that the Respondents violated the Act or
10 Commission regulations as a result of the activities described in the Complaint.

contribute up to \$10,000 to "one or more" of nine state party committees that were each affiliated with a common committee).

¹⁰ Compl. at 1.

¹¹ See 11 C.F.R. § 110.3(a)(2)(iv).

¹² See 11 C.F.R. § 110.3(b).